

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

Charleston

A PROCLAMATION

By the Governor

I, **JIM JUSTICE**, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby **AMEND** the proclamation dated October 8, 2021, calling the West Virginia Legislature to convene in Extraordinary Session on Monday, October 11, 2021, in its chambers in the State Capitol, the City of Charleston, as follows:

1. By deleting the Thirty-First item in its entirety and replacing it with the following:

THIRTY-FIRST: To amend and reenact §§ 16-2-2, 16-2-11, and 16-2-13 of the Code of West Virginia, 1931, as amended, all relating to the role of local county commissions or appointing entities as to rules of local health boards; by amending § 16-2-2 to provide that "enforcement activity" means the implementation or enforcement of applicable state rules, local rules, and local health department rules, to provide that "enhanced public health services" means services that focus on health promotion activities to address a major health problem in a community, are targeted to a particular population and assist individuals in this population to access the health care system, such as lead and radon abatement for indoor air quality and positive pregnancy tracking, and that enhanced public health services are services a local health department may offer, to provide that "health order" means an order issued by the local health officer or local health board to protect the public health of the citizens by directing an individual or a discreet group of individuals to take a specific action to protect the health of the public or stop the spread of a communicable disease, to provide that "imminent public health emergency" means any immediate acute threat, hazard, or danger to the health of the population of the jurisdiction, whether specific or general, whether or not officially declared, to provide that "guidance" means providing advice to a person, the public, a business, school board, or governmental entity regarding a public health issue or matter, and that guidance

is not a health order, to provide that "local health department rule" means a rule issued by the local board of health that has been approved by the appointing authority, a rule issued by the local board of health that was adopted prior to March 4, 2021, or a rule issued by the local board of health that may immediately go into effect because of an imminent public health emergency under the provisions of §16-2-11(b)(3)(H) of the code, to provide that "local rule" means an order adopted by a county commission or an ordinance adopted by a city that properly directs the local health department to implement or enforce the order or ordinance, to provide that "state rule" means a state statute, a legislative rule promulgated by a state agency, or an order of the secretary relating to public health that is to be enforced by the local health department; to provide, by amending § 16-2-11(b)(3)(A), that a local board of health may adopt and promulgate and from time to time amend local health department rules consistent with state rules that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation, and spread of disease; to provide, by amending § 16-2-11(b)(3)(B), that the commissioner shall establish a procedure by which adverse determinations by local health departments may be appealed, unless otherwise provided for, for the purpose of ensuring a consistent interpretation of state rules; to provide, by amending § 16-2-11(b)(3)(C) that when local health department rules are adopted, promulgated, or amended, the local board of health shall place notice in the State Register and on their organization's web page setting forth a notice of proposed action, including the text of the new local health department rule or the amendment and the date, time, and place for receipt of public comment; to provide, by amending § 16-2-11(b)(3)(D), that all local health department rules shall be approved, disapproved, or amended and approved by the county commission or appointing authority within 30 days of approval from the local board of health, and any local health department rule on which the appointing authority has taken no action within 30 days shall be void; to provide, by amending § 16-2-11(b)(3)(E), that all local health department rules of a combined local board of health shall be approved, disapproved, or amended and approved by each appointing authority within 30 days of approval from the combined local board of health. If one

appointing authority approves and another other does not approve a local health department rule from a combined local board health department, the local health department rule is only in effect in the jurisdiction of the appointing authority which approved the local health department rule; to provide, by amending § 16-2-11(b)(3)(F), that an approved local health department rule shall be filed with the clerk of the county commission or the clerk or the recorder of the municipality, or both, and shall be kept by the clerk or recording officer in a separate book as public records; to provide, by amending § 16-2-11(b)(3)(G), that a local health department rule currently in effect on March 4, 2021, is not subject to approval, unless amended, from the county commission or appointing authority; to provide, by amending § 16-2-11(b)(3)(H), that if there is an imminent public health emergency, approval of the county commission or appointing authority is not necessary before the local health department rule goes into effect but shall be approved or disapproved by the county commission or appointing authority within 30 days after the local health department rules are effective, and any rule on which the appointing authority has taken no action within 30 days shall be void; to provide, by amending § 16-2-13(a), that a local health officer serves as the executive officer of the local board and under its supervision, a local health officer shall administer and enforce state rules, local rules, and local health department rules within the local board of health's service area; and by amending § 16-2-13 by adding thereto new subsections designated (c), (d), and (e), to provide that a local health officer shall perform enforcement activity, that a local health officer may issue guidance, and that a local health officer may issue an order, respectively.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Thirteenth day of October, in the Year of our Lord, Two Thousand Twenty-One, and in the One Hundred Fifty-Ninth year of the State.


GOVERNOR


SECRETARY OF STATE